

Jayne,

Following is the draft Philippine bill. We are still waiting for approval from our client, which we expect to have soon. But in the meantime, should you have some time, I thought you might want to give it an informal review and give us your thoughts.

Best,

Ron

Sorini, Samet & Associates LLC is registered as an agent on behalf of the Department of Trade and Industry, Republic of the Philippines. Additional information is available at the Department of Justice, Washington, D.C.

2009 MAY -5 PM 3:23
CRM/CES/ACC. INFORMATION UNIT

111th Congress
1st Session

To establish the (Save Our Industries/SAVE) Act of 2009

IN THE (SENATE/HOUSE OF REPRESENTATIVES) OF THE UNITED STATES

MAY (JUNE) __, 2009

A BILL

To establish Save Our Industries/SAVE Act of 2009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC 1. TABLE OF CONTENTS.

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Trade benefits.

Sec. 104. Sense of Congress.

Sec. 105. Effective Date

Sec. 106. Termination.

SEC. 101. SHORT TITILE.

This Act may be cited as the "Save Our Industries Act of 2009/SAVE".

SEC. 102. FINDINGS; PURPOSES.

(a) Congress finds that--

- (1) the United States and the Republic of the Philippines [hereafter referred to as the Philippines], a former colony, share deep historical and cultural connections. The United States has developed preferential trading relations with former colonies such as the Marshall Islands, The Federated States of Micronesia and the Republic of Palau.
- (2) the Philippines represents a tremendous economic potential and enduring political and security significance to the United States.
- (3) the United States and the Philippines maintain a fair trading relationship that should be expanded to the mutual benefit of both countries. In 2008 U.S. exports to the Philippines were \$8.3 billion; U.S. imports from the Philippines were \$8.7 billion.
- (4) U.S. textile exports to the Philippines were nearly \$20 million in 2008, consisting mostly of broadwoven, industrial/specialty and non-woven fabrics. The potential for
- (5) the Philippines' textile and apparel industries, like that of their counterparts in the United States, share the same challenges and risks stemming from the end of the U.S. quota system and from the end of safeguards that continued to control apparel imports from China until January 1, 2009.
- (6) the pilot program will provide a strong incentive for Philippine apparel manufacturers to use U.S. fabrics, which will open new opportunities for the U.S. textile industry and increase opportunities for U.S. yarn manufactures.
- (7) the U.S. apparel fabrics industry is heavily dependent on sewing outside the United States, and for the first time, U.S. textile manufacturers would have a program that utilizes Asian sewing. In contrast, most sewing of U.S. fabric occurs in the Western Hemisphere, with about 75 percent of U.S. fabric exports presently going to CAFTA/NAFTA countries. Increased demand for U.S. fabric in Asia will increase opportunities for the U.S. industry.
- (8) apparel producers in the Western Hemisphere are excellent at making basic garments such as t-shirts and standard 5-pocket jeans. However, the needle capability does not exist to make high-fashion, more sophisticated garments such as embroidered t-shirts and fashion jeans with embellishments. Such apparel manufacturing is done almost exclusively in Asia.

(b) Purposes- The purposes of this Act are--

- (1) to encourage higher levels of trade in textiles and apparel between the United States and the Philippines and enhance the commercial well being of their respective industries in times of global economic hardship.
- (2) to enhance and broaden the economic, security and political ties between the United States and the Philippines.
- (3) to stimulate economic activity and development in regions such as Manila and Mindanao, critical fronts in the struggle against violent extremism;
- (4) to provide a stepping stone to an eventual free trade agreement between the United States and the Philippines, either bilaterally or as part of a regional agreement.

SEC.103. TRADE BENEFITS

(a) BENEFITS FOR U.S. – PHILIPPINE PRODUCTION

1. DEFINITIONS – For the purpose of this legislation,

A. **KNIT TO SHAPE.** – An article is knit-to-shape if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is “knit-to-shape.”

B. **WHOLLY FORMED.** – A yarn is wholly formed in the United States if all of the production processes and finishing operations, starting with the extrusion of filaments, strips, film or sheet, and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a finished yarn or plied yarn, took place in the United States.

C. **WHOLLY ASSEMBLED.** – A good is wholly assembled in the Philippines or the United States if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in the Philippines or the United States or both.

D. **CATEGORY.** – The number assigned under the U.S. Textile and Apparel Category System of the Office of Textiles and Apparel of the Department of Commerce, as listed in the 2009 Harmonized Tariff Schedule of the United States (HTS) under the applicable heading or subheading.

E. **ENTERED.** – The term ‘entered’ means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States

2. ARTICLES COVERED.- For the purpose of this section (a), eligible apparel articles means goods classified under any of the following categories: 338/339, 347/348, 352/652, 638/639, 647/648 and 640.

3. DUTY FREE TREATMENT FOR CERTAIN ELIGIBLE APPAREL ARTICLES –

A. Eligible apparel articles shall enter the United States free of duty if they are wholly assembled in the United States or the Philippines or both, and if the component determining the article's classification consists entirely of:

- (i) fabric components cut in the United States or the Philippines or both from fabric formed in the United States from yarns wholly formed in the United States;
- (ii) components knit to shape in the United States from yarns wholly formed in the United States; or
- (iii) any combination of the fabric components or components knit to shape described in clauses (i) and (ii).

B. An apparel article described in paragraph 3 shall be ineligible for duty free treatment if the component determining the article's classification comprises any fabric, fabric component, or component knit to shape in the United States that was dyed, printed, or finished other than in the United States.

C. An apparel article described in paragraph 3 shall not be disqualified from eligibility, however, because it undergoes stone-washing, enzyme-washing, acid-washing, permapressing, oven-baking, bleaching, garment-dyeing, screen printing or other similar processes in either the United States or the Philippines.

4. DUTY REDUCTION FOR CERTAIN ELIGIBLE APPAREL ARTICLES .-

A. Eligible apparel articles shall enter the United States at a reduced rate of duty if they are wholly assembled in the United States or the Philippines or both, and if the component determining the article's classification consists entirely of:

- (i) fabric components cut in the United States or the Philippines or both, from fabric formed in the United States or the Philippines or both, from yarns wholly formed in the United States;

- (ii) components knit to shape in the United States or the Philippines or both from yarns wholly formed in the United States; or
- (iii) any combination of fabric components or components knit to shape described in clauses (i) and (ii).

B. Reduced tariff rate: Upon importation into the United States, eligible apparel articles described in paragraph 4 shall be dutiable at the lesser of:

- (i) 50 percent of the most favored nation (MFN) rate applicable to the apparel article, or
- (ii) the MFN rate applicable to the article, assessed upon the value of the article less the cost or value of U.S. yarns in the article.

C. An eligible apparel article that meets the requirements both of paragraphs 3 and 4 shall be eligible for duty free treatment under paragraph 3.

5. DE MINIMIS. –

A. An otherwise eligible apparel article shall not be ineligible for preferential treatment because fibers or yarns used in the production of the component that determines the article's classification do not meet the requirements of paragraph 3 or 4, so long as the total weight of all such fibers or yarns in the component that determines the article's classification is not more than 10 percent of the total weight of that component.

B. Notwithstanding subparagraph A, an article described in paragraph 3 or 4 that contains elastomeric yarns in the component of the article that determines its tariff classification shall be eligible for duty free treatment only if such elastomeric yarns are wholly formed in the United States or the Philippines.

6. DIRECT SHIPMENT – Any eligible apparel article described in paragraph 3 or 4 must be imported directly into the United States from the Philippines.

(b) SINGLE TRANSFORMATION RULES. -- Any of the following apparel articles that is wholly assembled, or knit-to-shape, in the Philippines from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from the Philippines shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

1. Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied

to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for the purposes of this clause, reference in such chapter rule to '6104.12.00' shall be deemed to be reference to '6104.19.60'.

2. Any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

3. Any article not described in paragraph 1 or 2 and classifiable under category 237, 239, 335, 336/636, 340, 351/651, 435, 436, 442, 444, 448, 341/641, 644, 649, 350/650, 635, 342/642, 634, 652-women's only, 835, and 842.

(c) REVIEW AND REPORT.-

After one year, the United States Government Accountability Office shall review the program established for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

(d) ENFORCEMENT.-

1. No apparel article shall be afforded the preferential treatment described in sections (a) and (b) unless the President certifies to Congress that the Philippines is meeting the following conditions:

A. The Philippines reestablishes the Electronic Visa Information System (ELVIS) to further assist with prevention of unlawful transshipment of apparel articles and the use of counterfeit documents relating to the importation of apparel into the United States.

B. The Philippines continues to enforce the cooperation agreement signed with the United States that permits the Bureau of Customs and Border Protection verification teams to conduct visits to verify production and investigate thoroughly allegations of transshipment through such country.

C. The Philippines agrees to provide, on a timely basis at the request of the Bureau of Customs and Border Protection, and consistently with the manner in which the records are kept in the Philippines, a report on exports from the Philippines of apparel articles eligible for preferential treatment under sections (a) and (b), and on imports into the Philippines of U.S. yarns, fabrics, fabric components, or components knit to shape.

D. The Philippines agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textiles and Clothing.

E. The Philippines agrees to require its producers and exporters of articles described in sections (a) and (b) to maintain, for at least 3 years after export, complete records of the production and the export of such articles, including records of yarns, fabrics, fabric components, and components knit to shape and used in the production of such articles.

F. The Philippines agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, documentation establishing the country of origin of articles described in subsection () as used by that country in re-implementing an effective visa system.

G. The Philippines is to establish procedures that allow the Office of Textiles and Apparel (OTEXA) to obtain information when U.S. fabrics are exported to allow for monitoring and verification before the apparel shipments reach the United States. The information provided upon export of the fabrics would include, among other things, the name of the apparel importer, HTS number of the apparel to be made from the fabric, and the quantity of the apparel to be made (imported into the U.S.) from the fabric.

2. **DEFINITION OF TRANSHIPMENT.**- As used in section (d), transshipment has occurred when preferential treatment for an apparel article under this section has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or of any fabric, fabric component, or component knit to shape from which the apparel article was assembled. For purposes of this paragraph, false information is material if disclosure of the true information would have meant that the article is or was ineligible for preferential treatment under section (a) or (b).

3. The President shall issue a proclamation to carry out this section (d) not later than 180 days after the date of the enactment of the Save our Industries/SAVE Act of 2009. The President shall consult the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in preparing such proclamation.

SEC. 105. EFFECTIVE DATE.

This part and the amendments made by this part shall apply to articles entered, or withdrawn from warehouse for consumption, or after the 15th day after the date of the enactment of this Act.

SEC. 106. TERMINATION.

TERMINATION.- The preferential duty treatment provided under this section shall remain in effect until [date].

This material is distributed by Sorini, Samet & Associates LLC on behalf of the Department of Trade and Industry, Republic of the Philippines. Additional information is available at the Department of Justice, Washington D.C.

David and Brigitta,

Following is the draft Philippine bill. We are still waiting for approval from our client, which we expect to have soon. But in the meantime, should you have some time, I thought you might want to give it an informal review and give us your thoughts.

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Ludwika

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SEC. 101. SHORT TITILE.

This Act may be cited as the "Save Our Industries Act of 2009/SAVE".

SEC. 102. FINDINGS; PURPOSES.

(a) Congress finds that--

- (1) the United States and the Republic of the Philippines [hereafter referred to as the Philippines], a former colony, share deep historical and cultural connections. The United States has developed preferential trading relations with former colonies such as the Marshall Islands, The Federated States of Micronesia and the Republic of Palau.
- (2) the Philippines represents a tremendous economic potential and enduring political and security significance to the United States.
- (3) the United States and the Philippines maintain a fair trading relationship that should be expanded to the mutual benefit of both countries. In 2008 U.S. exports to the Philippines were \$8.3 billion; U.S. imports from the Philippines were \$8.7 billion.
- (4) U.S. textile exports to the Philippines were nearly \$20 million in 2008, consisting mostly of broadwoven, industrial/specialty and non-woven fabrics. The potential for
- (5) the Philippines' textile and apparel industries, like that of their counterparts in the United States, share the same challenges and risks stemming from the end of the U.S. quota system and from the end of safeguards that continued to control apparel imports from China until January 1, 2009.
- (6) the pilot program will provide a strong incentive for Philippine apparel manufacturers to use U.S. fabrics, which will open new opportunities for the U.S. textile industry and increase opportunities for U.S. yarn manufactures.
- (7) the U.S. apparel fabrics industry is heavily dependent on sewing outside the United States, and for the first time, U.S. textile manufacturers would have a program that utilizes Asian sewing. In contrast, most sewing of U.S. fabric occurs in the Western Hemisphere, with about 75 percent of U.S. fabric exports presently going to CAFTA/NAFTA countries. Increased demand for U.S. fabric in Asia will increase opportunities for the U.S. industry.
- (8) apparel producers in the Western Hemisphere are excellent at making basic garments such as t-shirts and standard 5-pocket jeans. However, the needle capability does not exist to make high-fashion, more sophisticated garments such as embroidered t-shirts and fashion jeans with embellishments. Such apparel manufacturing is done almost exclusively in Asia.

(b) Purposes- The purposes of this Act are--

- (1) to encourage higher levels of trade in textiles and apparel between the United States and the Philippines and enhance the commercial well being of their respective industries in times of global economic hardship.
- (2) to enhance and broaden the economic, security and political ties between the United States and the Philippines.
- (3) to stimulate economic activity and development in regions such as Manila and Mindanao, critical fronts in the struggle against violent extremism;
- (4) to provide a stepping stone to an eventual free trade agreement between the United States and the Philippines, either bilaterally or as part of a regional agreement.

SEC.103. TRADE BENEFITS

(a) BENEFITS FOR U.S. – PHILIPPINE PRODUCTION

1. DEFINITIONS – For the purpose of this legislation,

A. **KNIT TO SHAPE.** – An article is knit-to-shape if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is “knit-to-shape.”

B. **WHOLLY FORMED.** – A yarn is wholly formed in the United States if all of the production processes and finishing operations, starting with the extrusion of filaments, strips, film or sheet, and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a finished yarn or plied yarn, took place in the United States.

C. **WHOLLY ASSEMBLED.** – A good is wholly assembled in the Philippines or the United States if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in the Philippines or the United States or both.

D. **CATEGORY.** – The number assigned under the U.S. Textile and Apparel Category System of the Office of Textiles and Apparel of the Department of Commerce, as listed in the 2009 Harmonized Tariff Schedule of the United States (HTS) under the applicable heading or subheading.

E. **ENTERED.** – The term ‘entered’ means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States

2. ARTICLES COVERED.- For the purpose of this section (a), eligible apparel articles means goods classified under any of the following categories: 338/339, 347/348, 352/652, 638/639, 647/648 and 640.

3. DUTY FREE TREATMENT FOR CERTAIN ELIGIBLE APPAREL ARTICLES –

A. Eligible apparel articles shall enter the United States free of duty if they are wholly assembled in the United States or the Philippines or both, and if the component determining the article's classification consists entirely of:

(i) fabric components cut in the United States or the Philippines or both from fabric formed in the United States from yarns wholly formed in the United States;

(ii) components knit to shape in the United States from yarns wholly formed in the United States; or

(iii) any combination of the fabric components or components knit to shape described in clauses (i) and (ii).

B. An apparel article described in paragraph 3 shall be ineligible for duty free treatment if the component determining the article's classification comprises any fabric, fabric component, or component knit to shape in the United States that was dyed, printed, or finished other than in the United States.

C. An apparel article described in paragraph 3 shall not be disqualified from eligibility, however, because it undergoes stone-washing, enzyme-washing, acid-washing, permapressing, oven-baking, bleaching, garment-dyeing, screen printing or other similar processes in either the United States or the Philippines.

4. DUTY REDUCTION FOR CERTAIN ELIGIBLE APPAREL ARTICLES .-

A. Eligible apparel articles shall enter the United States at a reduced rate of duty if they are wholly assembled in the United States or the Philippines or both, and if the component determining the article's classification consists entirely of:

(i) fabric components cut in the United States or the Philippines or both, from fabric formed in the United States or the Philippines or both, from yarns wholly formed in the United States;

- (ii) components knit to shape in the United States or the Philippines or both from yarns wholly formed in the United States; or
- (iii) any combination of fabric components or components knit to shape described in clauses (i) and (ii).

B. Reduced tariff rate: Upon importation into the United States, eligible apparel articles described in paragraph 4 shall be dutiable at the lesser of:

- (i) 50 percent of the most favored nation (MFN) rate applicable to the apparel article, or
- (ii) the MFN rate applicable to the article, assessed upon the value of the article less the cost or value of U.S. yarns in the article.

C. An eligible apparel article that meets the requirements both of paragraphs 3 and 4 shall be eligible for duty free treatment under paragraph 3.

5. DE MINIMIS. –

A. An otherwise eligible apparel article shall not be ineligible for preferential treatment because fibers or yarns used in the production of the component that determines the article's classification do not meet the requirements of paragraph 3 or 4, so long as the total weight of all such fibers or yarns in the component that determines the article's classification is not more than 10 percent of the total weight of that component.

B. Notwithstanding subparagraph A, an article described in paragraph 3 or 4 that contains elastomeric yarns in the component of the article that determines its tariff classification shall be eligible for duty free treatment only if such elastomeric yarns are wholly formed in the United States or the Philippines.

6. DIRECT SHIPMENT – Any eligible apparel article described in paragraph 3 or 4 must be imported directly into the United States from the Philippines.

(b) SINGLE TRANSFORMATION RULES. -- Any of the following apparel articles that is wholly assembled, or knit-to-shape, in the Philippines from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from the Philippines shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

1. Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied

to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for the purposes of this clause, reference in such chapter rule to '6104.12.00' shall be deemed to be reference to '6104.19.60'.

2. Any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

3. Any article not described in paragraph 1 or 2 and classifiable under category 237, 239, 335, 336/636, 340, 351/651, 435, 436, 442, 444, 448, 341/641, 644, 649, 350/650, 635, 342/642, 634, 652-women's only, 835, and 842.

(c) REVIEW AND REPORT.-

After one year, the United States Government Accountability Office shall review the program established for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

(d) ENFORCEMENT.-

1. No apparel article shall be afforded the preferential treatment described in sections (a) and (b) unless the President certifies to Congress that the Philippines is meeting the following conditions:

A. The Philippines reestablishes the Electronic Visa Information System (ELVIS) to further assist with prevention of unlawful transshipment of apparel articles and the use of counterfeit documents relating to the importation of apparel into the United States.

B. The Philippines continues to enforce the cooperation agreement signed with the United States that permits the Bureau of Customs and Border Protection verification teams to conduct visits to verify production and investigate thoroughly allegations of transshipment through such country.

C. The Philippines agrees to provide, on a timely basis at the request of the Bureau of Customs and Border Protection, and consistently with the manner in which the records are kept in the Philippines, a report on exports from the Philippines of apparel articles eligible for preferential treatment under sections (a) and (b), and on imports into the Philippines of U.S. yarns, fabrics, fabric components, or components knit to shape.

D. The Philippines agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textiles and Clothing.

E. The Philippines agrees to require its producers and exporters of articles described in sections (a) and (b) to maintain, for at least 3 years after export, complete records of the production and the export of such articles, including records of yarns, fabrics, fabric components, and components knit to shape and used in the production of such articles.

F. The Philippines agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (i) as used by that country in re-implementing an effective visa system.

G. The Philippines is to establish procedures that allow the Office of Textiles and Apparel (OTEXA) to obtain information when U.S. fabrics are exported to allow for monitoring and verification before the apparel shipments reach the United States. The information provided upon export of the fabrics would include, among other things, the name of the apparel importer, HTS number of the apparel to be made from the fabric, and the quantity of the apparel to be made (imported into the U.S.) from the fabric.

2. **DEFINITION OF TRANSHIPMENT.**- As used in section (d), transshipment has occurred when preferential treatment for an apparel article under this section has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or of any fabric, fabric component, or component knit to shape from which the apparel article was assembled. For purposes of this paragraph, false information is material if disclosure of the true information would have meant that the article is or was ineligible for preferential treatment under section (a) or (b).

3. The President shall issue a proclamation to carry out this section (d) not later than 180 days after the date of the enactment of the Save our Industries/SAVE Act of 2009. The President shall consult the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in preparing such proclamation.

SEC. 105. EFFECTIVE DATE.

This part and the amendments made by this part shall apply to articles entered, or withdrawn from warehouse for consumption, or after the 15th day after the date of the enactment of this Act.

SEC. 106. TERMINATION.

TERMINATION.- The preferential duty treatment provided under this section shall remain in effect until [date].

This material is distributed by Sorini, Samet & Associates LLC on behalf of the Department of Trade and Industry, Republic of the Philippines. Additional information is available at the Department of Justice, Washington, D.C